

RECOMMENDATIONS: In addition to the recommendations addressed above in the public interest section, and the OSS and performance standard sections addressed below, the Commission recommends the following, the details of which could be established in the collaborative process. The Commission believes implementation of both the spirit and the letter of these recommendations would lead to an affirmative answer on this checklist issue.

1. SWBT shall be required to expedite the design process to implement measurement capability in its switching and billing systems for terminating access/originating 800 usage data for the unbundled switch or provide sufficient evidence to demonstrate why expediting this development is not feasible. The Commission further recommends that this issue, including interim compensation solutions, be explored in more detail during the collaborative process among SWBT, the participants, and Commission staff;
2. As an alternative recommendation, in the event SWBT is allowed to provide in-region interLATA service before providing a technical solution to this problem, the Commission could recommend to the FCC that SWBT interLATA relief be limited to originating, non-800 type interLATA service until SWBT has demonstrated that it provides CLECs usage data for these type of calls;
3. If a party wishes to obtain customized routing by using line-class codes, SWBT shall be required to provide such option. The appropriate rates for such service shall be based on forward looking costs. To the extent that no CLEC is interested in obtaining customized routing by using line-class codes at cost-based rates, SWBT may still be considered as "providing" such customized routing in compliance with this checklist item.

ITEM SEVEN: Has SWBT provided nondiscriminatory access to the following, pursuant to section 271(c)(2)(vii) and applicable rules promulgated by the FCC: (a) 911 and E911 services; (b) directory assistance services to allow the other telecommunications carrier's customers to obtain telephone numbers; and, (c) operator call completion services?

RECOMMENDATIONS: In addition to the recommendations addressed above in the public interest section, and the OSS and performance standard sections addressed below, the Commission recommends the following, the details of which could be established in the collaborative process. The Commission believes implementation of both the spirit and the letter of these recommendations would lead to an affirmative answer on this checklist issue.

1. SWBT shall provide a compare file to each CLEC so the CLEC can verify the accuracy of 911 database information it has submitted with the actual entry by SWBT. Additionally, SWBT shall include a parity performance measure that would indicate the number of records that were entered incorrectly for its own customers, each CLEC's customers, and all CLEC customers. SWBT shall file these reports for a minimum of three months with the parties and the Commission staff to determine if parity performance violations have occurred. Until such determination is made SWBT has not met the burden of proof that it is indeed providing parity performance;
2. Pursuant to the Mega-Arbs, SWBT shall not remove customer data from the directory assistance (LIDB) database when a new customer is served through UNEs;
3. SWBT shall collaborate with the CLECs and Commission staff to create a procedure to establish non-discriminatory procedures for customers that have been won back;
4. In addition, SWBT has denied access to ILEC directory assistance listings claiming that the

ILECs have not given SWBT permission to release their customer's information. At the hearing, SWBT stated that these listings would be released as soon as that permission was received. Tr. at 1055. SWBT and the participants shall coordinate their efforts to acquire the ILECs' permission through the use of a standard release.

ITEM EIGHT: Has SWBT provided white pages directory listings of customers of other telecommunications carrier's telephone exchange service, pursuant to section 271(c)(2)(B)(viii) of FTA96 and applicable rules promulgated by the FCC?

RECOMMENDATIONS: In addition to the recommendations addressed above in the public interest section, and the OSS and performance standard sections addressed below, the Commission recommends the following, the details of which could be established in the collaborative process. The Commission believes implementation of both the spirit and the letter of these recommendations would lead to an affirmative answer on this checklist issue.

1. SWBT shall be required to provide CLEC resellers with the opportunity to review and correct white pages directory listings prior to the date white pages directory listings are published in telephone directories to sustain its burden of proof with regards to the nondiscriminatory access standard between and among carriers;
2. SWBT shall allow CLECs to choose whether their white page listings are interspersed with SWBT listings or whether they are separate from SWBT's listings;
3. SWBT shall allow CLEC resellers the same options as facilities-based CLECs for distribution of white page telephone directories;
4. SWBT shall institute a procedure to permit CLECs to adhere advertisements to the white pages directory.

ITEM NINE: Has SWBT provided nondiscriminatory access to telephone numbers for assignment to the other telecommunications carrier's telephone exchange service customers, pursuant to section 271(c)(2)(B)(ix) of FTA96 and applicable rules promulgated by the FCC?

RECOMMENDATION: The Commission concludes that SWBT has satisfied the requirements of this checklist item with no further action.

ITEM TEN: Has SWBT provided nondiscriminatory access to databases and associated signaling necessary for call routing and completion, pursuant to section 271(c)(2)(B)(x) of FTA96 and applicable rules promulgated by the FCC?

RECOMMENDATION: The Commission concludes that SWBT has satisfied the requirements of this checklist item with no further action.

ITEM ELEVEN: Has SWBT provided number portability, pursuant to section 271(c)(2)(B)(xi) of FTA96 and applicable rules promulgated by the FCC?

RECOMMENDATIONS: In addition to the recommendations addressed above in the public interest section, and the OSS and performance standard sections addressed below, the Commission recommends the following, the details of which could be established in the collaborative process. The

Commission believes implementation of both the spirit and the letter of these recommendations would lead to an affirmative answer on this checklist issue.

1. SWBT shall take corrective measures to minimize the manual intervention of its mechanized process in the provision of interim number portability (INP). SWBT shall provide at least three months of data beginning May 15, 1998, to this Commission and to the participants to ensure that CLEC customers do not lose service during the INP process;
2. The Commission has concerns relating to SWBT's delayed implementation of permanent number portability (PNP) as well. Delays in the implementation of PNP place competitors at a disadvantage, because interim solutions do not provide parity; staff, therefore, recommends that some measure be taken to address the potential for further delays in PNP implementation and the consequent detrimental effect on competition and that this issue be explored in more detail in the collaborative process;
3. SWBT shall set forth its policy on route indexing and other forms of INP, including the terms and conditions upon which it is offered;
4. SWBT shall demonstrate that it has an approved tariff providing for PNP.

ITEM TWELVE: Has SWBT provided nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) of FTA96, pursuant to section 271(c)(2)(B)(xii) and applicable rules promulgated by the FCC?

RECOMMENDATIONS: In addition to the recommendations addressed above in the public interest section, and the OSS and performance standard sections addressed below, the Commission recommends the following, the details of which could be established in the collaborative process. The Commission believes implementation of both the spirit and the letter of these recommendations would lead to an affirmative answer on this checklist issue.

1. In areas where SWBT offers optional two-way extended area service (EAS) arrangements, CLECs should have the opportunity to negotiate the interconnection rates, terms, and conditions for similar two-way arrangements with SWBT. SWBT shall be required to complete calls placed by its customers to a CLEC's two-way EAS customers as local calls provided SWBT and the CLEC have negotiated appropriate compensation for such traffic;
2. In SWBT's intraLATA dialing parity docket, Commission staff had requested that SWBT be required to file "written procedures regarding carrier-neutral, administrative and other processes it will use to implement customer selection of another intraLATA toll carrier and to provide intraLATA toll dialing parity." At this time, however, SWBT has not yet provided the Commission with any guidelines or scripts SWBT plans to use for intraLATA PIC (primary interexchange carrier) selection. SWBT has merely stated that it plans to use the same processes that have been in place for interLATA PICs, and that it has no additional details of its carrier selection process for intraLATA PIC. This issue needs to be resolved before SWBT can satisfy this checklist item.

ITEM THIRTEEN: Has SWBT provided reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) of FTA96 pursuant to section 271(c)(2)(B)(xiii), and applicable rules promulgated by the FCC?

RECOMMENDATIONS: In addition to the recommendations addressed above in the public

interest section, and the OSS and performance standard sections addressed below, the Commission recommends the following, the details of which could be established in the collaborative process. The Commission believes implementation of both the spirit and the letter of these recommendations would lead to an affirmative answer on this checklist issue.

1. SWBT shall be required to abide by the Commission's ruling on compensation for internet service provider (ISP) traffic in Docket No. 18082 with respect to other CLECs. ISP traffic shall be classified as local traffic and compensated at the local interconnection rates contained in the specific SWBT-CLEC agreement, unless the agreement specifically classifies ISP traffic as non-local traffic. SWBT's obligation to pay reciprocal compensation should not be conditioned on any terms, nor should the CLECs be required to seek arbitration to receive such compensation;
2. Appropriate traffic records shall be exchanged between SWBT and CLECs to facilitate the payment of mutual compensation for calls;
3. Compensation for expanded local calling service (ELCS) traffic shall be consistent with the Commission's decision in the mega-arbitration. EAS traffic, including ELCS traffic, shall be subject to the lesser of the cost-based interconnection rates or the interconnection rates in effect between SWBT and other incumbent LECs for such traffic.

ITEM FOURTEEN: Has SWBT provided telecommunications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) of FTA96, pursuant to 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC?

RECOMMENDATIONS: In addition to the recommendations addressed above in the public interest section, and the OSS and performance standard sections addressed below, the Commission recommends the following, the details of which could be established in the collaborative process. The Commission believes implementation of both the spirit and the letter of these recommendations would lead to an affirmative answer on this checklist issue.

1. SWBT shall develop procedures to assure that the provision of voice mail and other unregulated services provided by a SWBT affiliate will continue uninterrupted during the transition from one local telephone provider to another. This process will necessitate coordination with SWBT's voice mail subsidiary to assure that voice mail is not disconnected, unless a CLEC or customer requests disconnection of the voice mail service. Should the voice mail subsidiary find this process unreasonable, the subsidiary can always verify with the customer or CLEC the need to continue the provision of voice mail, without undue harm to the subsidiary;
2. SWBT shall revise its procedures to ensure that all promotions of its telecommunications services are done only after adequate notification has been provided to CLECs. Adequate notification includes the provision of notice, at least thirty days in advance of the proposed implementation date for any promotion. Additionally, SWBT shall communicate with all its CLEC customers to obtain information indicating which department or principal should receive promotional material. This would ensure the timely receipt of information provided by SWBT to the department that is required to act on behalf of the CLEC for such promotions. Finally, SWBT shall provide promotional material to all CLECs in a consistent matter, regardless of whether they are purchasing resold services as a result of an interconnection agreement or tariff;
3. The Commission agrees that most of the rulings related to customer specific contracts must be

decided during the docketed proceeding. However, the FCC determined in its decision in BellSouth/South Carolina, that an RBOC must provide customer specific contracts for resale at a wholesale discount in order to meet this checklist item. To the extent SWBT wants to provide proof that it is meeting this checklist item, SWBT shall change its policy to reflect compliance with the FCC's decision;

4. At the hearing, SWBT indicated it would provide a discount on ALL promotions, regardless of duration, e.g., 30-day promotions. SWBT shall provide documentation of such.

Performance Measures

RECOMMENDATIONS: In addition to the recommendations addressed above in the **public interest** and **checklist item** sections, and the **OSS** sections addressed below, the Commission recommends the following measures and requirements as a beginning point, the details of which could be established in the collaborative process.

1. The Commission recommends that the concept of broad, outcome-based performance measures be explored for interconnection, UNEs, and resale;
2. The Commission shall consider the appropriateness of monetary penalties, including discounts to rates, as a sanction for nonperformance to the extent SWBT misses due dates in the future. The monetary penalties shall be set a level sufficient to discipline non-compliance and to insure self-enforcement;
3. SWBT shall establish that it has a consistent policy and time deadlines in responding to CLEC inquiries, as well as trouble and repair reports, and should design performance monitoring to measure its responsiveness to CLECs;
4. The Commission concurs with SWBT that the required measurement for E911 is the length of time required to clear an error; however, the definition and details of the measure should be established during the collaborative process;
5. SWBT shall provide measurements with regard to the timeliness of E911 database updates to establish that the 911 service provided to the CLECs is equivalent to that which SWBT provides to itself;
6. Benchmarks shall be established and reports made on performance measurement for a period of three months that demonstrate the timeliness of the E911 database updates for the CLECs and for SWBT. Specifically, a measurement shall be developed quantifying the amount of time that elapses between the time a CLEC's customer records are received by SWBT until the time these records have been accepted or rejected from the E911 database. A corresponding analogous measurement showing the timeliness of SWBT's own updates shall be reported for the same three month period;
7. SWBT shall initiate a policy to conduct traffic studies by obtaining busy hour data to know how a trunk group is performing and to know whether that trunk group needs augmenting. As a part of the traffic study, SWBT shall obtain peg overflow and usage counts, to determine the amount of lost traffic into a CLEC's switch from both tandems and end offices. These studies shall be made available to all interconnecting CLECs;
8. SWBT shall provide at least three months of data on all performance measures;
9. SWBT shall establish an Internet site where it will post all of its historical performance measurement reports for non-restricted use by interested parties on a monthly basis;
10. The Commission generally agrees with the supplementation as recommended by the

Department of Justice (DOJ). SWBT shall provide those additional performance measures to CLECs, as well as additional measures established by the Commission, FCC, or the DOJ. Once established, all CLECs shall be allowed to amend or MFN into the supplemented performance measures;

11. The following specific measures shall be established: (1) performance measures related to the access to be offered by SWBT to enable CLECs to combine UNEs; (2) speed of processing requests to accessing poles, conduits, and rights-of-way; and (3) number of days to complete physical collocation facilities;
12. SWBT should establish the following measures: (1) a measurement which would include the average delay days for all SWBT caused missed due dates; and (2) the percentage of all SWBT caused missed due dates greater than 30 days. The Commission also believes that a measure reflecting coordinated conversions should be developed. SWBT shall discuss with CLECs the development of performance measurements that relate to premature disconnect and the coordinated customer conversion process and jointly develop measurements that would enable both parties to track parity in the process;
13. Because the current process for updating directory listings activity for CLECs and independent companies are manual, the Commission concludes that SWBT add the following measures: (1) directory listings database update completion interval; (2) directory listings database update interval; and (3) directory listings electronic interface availability;
14. Because the process employed by SWBT for Operator Services (OS) and Directory Assistance (DA) is the same as that used by CLECs and other independent companies, the measurements proposed by SWBT for OS/DA should provide adequate information making the additional measures unnecessary to ensure parity for this category. The measurements provided in this category shall include: (1) Grade of Service; and (2) Average Speed of Answer. Furthermore, the measures shall be reported aggregated for SWBT and for CLECs;
15. Measures shall be established to assure parity in the provision of interim number portability;
16. The Commission finds that SWBT must provide measurements for interconnection trunks for all CLECs to assure nondiscriminatory treatment. The measurements shall include: (1) Percent Trunk Blockage; (2) Common Transport Trunk Blockage; (3) Distribution of Common Transport Trunk Groups Exceeding 2%; (4) Percent Missed Due Dates; and (5) Average Trunk Restoration Interval along with the standard deviation. The measurements provided shall include data for individual CLECs, all CLECs, and SWBT;
17. SWBT is contractually required to file performance measures for different types of unbundled loops and resale services in the approved AT&T and MCI interconnection agreements. As an additional requirement, the performance measures related to DS-1, DS-3 and higher capacity loops and dedicated transport should be tracked separately;
18. "Average Time to Return Firm Order Commitment" shall also include SWBT's own internal performance in order to compare it with its performance provided to CLEC;
19. SWBT shall provide a measurement of the performance it provides to its own customers as related to "percentage of Trouble Reports Within 10 days of Installation" and "Percentage of Trouble Reports Within 30 Days of Installation;"
20. SWBT shall include an additional measure "Delayed Orders Cleared After 30 Days." This measurement shall be reported for loop by separate capacity category;
21. SWBT shall report comparative data on NXX loaded and tested prior to local exchange routing guide (LERG) effective date, and Mean Time to Repair for NXX Troubles;
22. SWBT's Network Performance measures shall include Ratio of Calls Blocked to Calls Attempted;
23. SWBT should develop a process for simulation modeling for those measures for which actual

- results are not available or are so limited that a statistical comparison is not feasible;
24. SWBT shall implement TCG's suggestions as far as the kinds of benchmarks to establish to measure SWBT's performance in the area of directory assistance and operator call completion;
 25. SWBT's performance data shall be further disaggregated, consistent with the discussions of the Office of Public Utility Counsel (OPC) and the testimony of SWBT witness Dysart;
 26. The Commission recommends that a measure reflecting coordinated conversions should be developed. SWBT shall work with the CLECs and Commission Staff to develop measures relating to premature disconnect and the coordinated customer conversion process and develop measurements that would enable all parties to track parity;
 27. The issue of auditing shall be addressed further in the collaborative process between SWBT, the participants, and Commission Staff. SWBT must allow CLECs to audit the underlying performance data used in calculating the required measure to provide CLECs the ability to satisfy any concerns that the performance measures "mask" discriminatory treatment, *i.e.*, disparate treatment in a particular exchange. As an initial matter, the Commission believes it is appropriate for the requesting CLEC to bear the costs associated with such an audit. However, if the CLEC demonstrates that SWBT has consistently provided discriminatory and/or lower grade service than it provides to itself, SWBT is required to refund such fees. If necessary, the post-interconnection dispute process may be used to resolve disputes regarding the payment of such fees. In such a process, it may be appropriate to consider attorneys' fees and litigation costs to be part of the overall audit costs;
 28. Performance penalty issues need to be resolved. Issues for the collaborative process include the type of penalty, level of penalty, and the appropriateness of any necessary safeguards to protect CLECs from sporadic performance and SWBT from random fluctuations. For any measure, when SWBT's performance substantially deviates from parity, *e.g.*, more than one standard deviation for three consecutive months, the Commission recommends that a root cause analysis be performed to determine the cause of the disparity. In other words, SWBT must investigate exceptionally good and exceptionally bad performance results;
 29. In recognition of the New York Public Service Commission's ruling in Bell Atlantic's Section 271 docket and the concerns raised by participants in this docket, the Commission believes that the performance penalty structure in the AT&T and MCI interconnection agreements with SWBT, which was largely negotiated, may not be adequate to assure nondiscriminatory treatment. Instead, during the collaborative process, proposals relating to a reduction in resale/UNE/interconnection rates should be considered if, prospectively, the Commission determines that SWBT has failed to meet the performance requirements, or engaged in discriminatory practices against CLECs;
 30. The Commission recommends that additional safeguards be considered if performance penalties are determined to be insufficient to restrain anticompetitive behavior after SWBT obtains § 271 relief. Such a procedure may allow the Commission to issue a cease and desist order affecting SWBT's ability to accept new in-region interLATA customers if the Commission determines that SWBT has provided sub-standard and/or discriminatory service to CLECs, such that CLECs do not have a meaningful opportunity to compete in local markets. This issue is more broadly discussed in the public interest section;
 31. SWBT shall be required to allow a CLEC that was not a party to the mega-arbitration to include those performance measures while allowing the CLEC to raise new issues that were not arbitrated or negotiated during the mega-arbitration hearing through further negotiation or arbitration and shall explore development of a tariff containing performance measures and public availability of performance measure data;
 32. Consistent with the attachment-by-attachment MFN philosophy, SWBT shall allow a CLEC

that was not a party to the mega-arbitration to adopt the performance measures without having to adopt the separate and distinct provision on performance penalties;

33. SWBT shall provide all the performance data required by its interconnection agreements with AT&T and MCI, including the average response time for preorder interfaces, provisioning accuracy, average time to return firm order commitments (FOCs), mean time to return service, order process percent flow-through, LSC speed of answer, billing accuracy, billing timeliness, or any measures with respect to UNEs or design services.

Operations Support Systems (OSS)

RECOMMENDATIONS: In addition to the recommendations addressed above in the public interest, checklist item, and the performance standard sections above, the Commission recommends the following, the details of which could be established in the collaborative process. The Commission also includes a brief discussion relating to the relationship between interim and permanent interfaces to provide some context for the specific recommendations.

Relationship between interim and permanent interfaces:

There are a number of interim and permanent OSS interfaces discussed in these comments. In particular, at least for CLECs willing to move to an EDI (Electronic Data Interexchange solution), EASE (Easy Access Sales Environment) is an interim interface for resale and UNE switch/port combinations, LEX (Local Service Request Exchange System) is an interim solution for resale and UNE orders, VERIGATE (Verification Gateway) and DataGate are interim measures for preordering functions. SWBT's ultimate obligation is to develop a real-time, interactive, EDI gateway based on national standards.

As the final stages of EDI development are in progress, SWBT's § 271 relief should not be rejected on this issue if certain conditions are met indicating that the OSS systems in place meet the requirements set out by the Commission and the FCC. These conditions include the following:

1. SWBT's interim measures provide flow-through and are modified as discussed in the specific recommendations contained herein;
2. SWBT continues to develop its EDI interface in good faith; this issue should be explored in more detail during the collaborative process. (Some form of adjustment may be necessary to offset the necessity of CLECs to undertake dual entry prior to EDI development being completed to the Commission's satisfaction, if SWBT does not meet its implementation dates for EDI development. Potentially, an interim discount on SWBT's electronic service order charge may be appropriate.); and
3. Sufficient procedures are in place to transition from interim measures to permanent solutions.

Specific Recommendations:

1. OSS shall be addressed in the collaborative process. The Commission believes implementation of both the spirit and letter of these recommendations would lead to an affirmative answer on OSS;
2. SWBT shall establish that all of its OSS systems for pre-ordering, ordering, provisioning, maintenance and repair, and billing are at parity;

3. SWBT shall establish that all of its electronic OSS systems for pre-ordering, ordering, provisioning, maintenance and repair, and billing are at parity and provide flow-through without the necessity of manual intervention;
4. SWBT shall conform its technical documents to meet the LEX and EDI interfaces. SWBT's LEX and EDI interface, at the time of the hearing, did not sufficiently follow the technical documentation provided by SWBT to CLECs;
5. SWBT shall modify LEX to better integrate LEX with VERIGATE, a pre-ordering apparatus. SWBT should develop the capability necessary to allow more efficient order preparation, beyond "Cut and Paste" functionality, in order to prevent a CLEC's sales representative from re-keying certain information multiple times when it is not necessary. SWBT's LEX system, at the time of the hearing, could not be used in a manner reasonably comparable to the EASE interface used by SWBT for its retail operations;
6. SWBT shall undertake further development of LEX and EDI to achieve the flow through capabilities for both UNE and Resale orders. LEX and EDI's electronic flow through, at the time of the OSS demonstration, was not sufficiently comparable to that of SWBT's EASE system to provide nondiscriminatory access to CLECs. Further flow through capability is necessary. SWBT shall provide data on the rejection rate for orders processed to demonstrate the new flow through capability achieved through Phase I implementation;
7. SWBT shall demonstrate that improved flow through capability enables SWBT's OSS to handle commercial volumes;
8. SWBT shall provide further explanation regarding the disparity in EASE flow through rates in order to ascertain whether EASE is provided in a nondiscriminatory manner;
9. SWBT shall complete the development of EASE for UNE switch/port combinations;
10. Further review of SWBT's OSS training is necessary to determine whether SWBT is providing sufficient training for CLECs to effectively use the interfaces provided by SWBT;
11. Delays relating to LEX and EDI batch processes need to be reduced and transitioned to real time. SWBT shall demonstrate that such delays have been reduced;
12. SWBT needs to develop the procedures to provide timely, accurate information regarding order errors, jeopardies, and CLECs' access order status information;
13. SWBT needs to implement adequate safeguards to assure timely, efficient, parity performance for the manual orders processed by the LSC and CLEC questions directed to LSC. The Commission, therefore, recommends that this issue be explored in more detail during the collaborative process among SWBT, the participants, and Commission Staff. Further review of performance measures may be necessary to provide such a safeguard;
14. SWBT shall either improve the preordering interfaces available to CLECs to provide sufficient access to customer information and/or clarify the record to show that CLECs have parity access to customer service records, e.g., ISDN, complex services and design services;
15. To the extent SWBT's access to the PREMIS database is at the customer service representative level, SWBT shall provide sufficient access to that database system's information and functionality in order to provide parity access;
16. SWBT shall provide access to SORD (Service Order Retrieval Distribution) and LFACS (Local Facilities Access System) at cost-based rates, terms, and conditions. As discussed previously, SWBT would have to provide training necessary to allow CLECs obtain parity access to SORD and LFACS;
17. SWBT shall be required to demonstrate, by providing at least three months of data, that it is providing CLECs with service that meets the performance standards established in this proceeding and in its interconnection agreements;
18. The Commission finds that SWBT does not make available the ability for a facilities-based

- CLEC to supplement pending service orders or receive timely jeopardy notifications, error notifications, or workflow confirmations. SWBT must either make this capability available to CLECs electronically or demonstrate that SWBT's customer service representatives do not have such access;
19. To provide necessary notifications, SWBT shall fully develop the jeopardy notification function into its EDI interface. This development should also be incorporated into the Order Status Toolbar function;
 20. Although fax rejects may be appropriate when a CLEC provides its orders via fax, SWBT shall provide an electronic means for such notification when a CLEC uses an electronic means to place its orders with SWBT;
 21. SWBT does not provide data as to the amount of time it takes SWBT to process and transmit reject notifications to CLECs. Moreover, SWBT could not provide specific goals and procedures in response to questioning from the Commissioners so actual performance could be measured against a benchmark. SWBT shall implement such goals and procedures so CLECs can regularly receive this information timely enough to correct such errors without affecting customer service. Such goals and procedures provide a CLEC with the ability to smoothly convert a customer to its service;
 22. SWBT must make clear to CLECs the effect of the various stages of an order's "completion" to avoid confusion. To the extent this issue is one of communication, this issue can be addressed in the policy manual discussed in the public interest section of these comments;
 23. The Commission, like the FCC, believes that actual commercial usage is the most probative evidence concerning a system's ability to handle large commercial volumes. The Commission recommends, to the extent there is no actual commercial usage or third party testing, alternative means for assessing system performance be developed in the collaborative process. For example, as greater flow-through is developed, commercial volume concerns may be eased as the representative hours necessary to input orders directly into SORD will be lessened. However, even after the potential manual "bottleneck" issue is resolved, there may remain a need to stress test SWBT's OSS systems before an affirmative recommendation is made on this issue;
 24. A record on billing issues should be developed further during the collaborative process. The FCC determined that this information is necessary because "competing carriers that use the incumbent's resale services and unbundled network elements must rely on the incumbent LEC for billing and usage information. The incumbent's obligation to provide timely and accurate information is particularly important to a competing carrier's ability to serve its customers and compete effectively." A BOC must also provide detailed evidence to support its claim that it is providing billing on terms and conditions that are nondiscriminatory, just and reasonable. This information should include measures that compare the BOCs performance in delivering daily usage information for customer billing to both its own retail operation and that of competing carriers;
 25. SWBT must resolve the double-billing and other billing issues raised during this proceeding and bring forth proof that such problems have been adequately addressed;
 26. SWBT shall either limit requirement that a single CLEC obtain multiple OCNs (operating company numbers) or AECNs (alternate exchange company number) or demonstrate a necessity for such requirement;
 27. SWBT shall provide CLECs with sufficient definition or information to decipher the downloads of information that a CLEC needs to validate addresses, determine calling scope, and determine feature availability without having to access SWBT's systems;
 28. SWBT shall provide parity access to consolidated CSRs for business customers that have more

- than 30 lines or that have any design services such as Centrex. SWBT must enhance the ability of its interfaces to handle these order types or demonstrate that parity is provided at this time;
29. SWBT shall demonstrate that its back-end systems are operationally ready, to assure performance parity between CLECs and SWBT's retail operations for POTS (plain old telephone service) order completion, FOCs, installation intervals, trouble reports, design services, billing accuracy, or billing timeliness.

Section 272 Compliance

SECTION 272 COMPLIANCE: Pursuant to section 271(d)(3)(B), has SWBT demonstrated that the requested authorization will be carried out in accordance with the requirements of section 272?

RECOMMENDATIONS: The Commission recommends the following, the details of which could be established in the collaborative process. The Commission believes implementation of both the spirit and the letter of these recommendations would lead to compliance with Section 272.

1. Although SWBT has established a separate affiliate to provide interLATA services in Texas, the actual corporate structure must be clarified. The Commission cannot determine from the record which SBC subsidiary and/or d/b/a will be used to provide interLATA services in Texas. SWBT shall supplement the record with the necessary information;
2. It is the Commission's position that the independence and separation of the SBLD board and officers from SWBT is not absolutely clear in the record. The record on this issue shall be further developed and clarified so that a determination can be made as to whether SBLD's officers, directors, and employees are separate from SWBT and its corporate chain of command;
3. SWBT's postings on the internet do not clearly delineate the services which are provided by SWBT to SBLD, the identified interLATA affiliate. The internet postings shall clearly identify this information. Additionally, the internet postings shall be revised to indicate which of the services are provided by SWBT to SBLD for Texas, for Oklahoma, or any other state served by the three SBC BOCs, or services provided by SWBT to support SBCS in its other activities outside the SWBT service areas;
4. SWBT shall make available public access to information on transactions between the BOC and the interLATA affiliate at the BOC's headquarters. After the hearing, SWBT in an affidavit reported it would move the records to San Antonio, Texas during the month of June 1998. SWBT should file a follow-up affidavit once the records are available in San Antonio. The Commission must have proof that the records will remain available in San Antonio pursuant to the FCC's order;
5. SWBT shall post on the internet a written description of the asset or service transferred along with the terms and conditions;
6. There is insufficient information to evaluate if transactions are fairly and accurately valued. SWBT shall provide such additional information, so the Commission can determine which of the posted services and assets would be available on an equal pricing basis to a competitor of SBLD;
7. Transactions between February 1996 and the date of approval to initiate interLATA services shall be disclosed and made subject to "true-up;"
8. SWBT shall provide additional information to enable the Commission to evaluate if transactions are arms-length between the affiliates;
9. SWBT shall limit its use of "CONFIDENTIAL" and "PROPRIETARY" classifications to those

- transactions that meet the FCC guidelines for such protections;
10. The record shall be developed further as to SWBT's practices regarding the use of "CONFIDENTIAL" and "PROPRIETARY" restrictions on documents. If contracts between SWBT and its interLATA affiliate are improperly so marked, then, the Commission's position is that SWBT does not meet the public disclosure requirements of Section 272;
 11. The audit report to Texas must report on transactions from all three SBC BOCs, summarizing the total support services from each BOC, reporting the specific services received by the long distance affiliate from each BOC, and reporting on the allocation of expenses within the SBCS organization by subsidiary and by d/b/a title;
 12. The Commission has concerns regarding marketing, but recognizes the FCC's decision in BellSouth/South Carolina. The Commission, nonetheless, has concerns that the strong recommendation of its affiliate by SWBT and the warm-hand-off to the affiliate would not pass any arms-length test. If a customer truly does not readily state a long distance company choice, then random assignment of a carrier is preferable.

The following Commission Staff assisted in this proceeding:

Donna Nelson	Katherine Farroba
Howard Siegel	Ericka Kelsaw
Eric White	Wes Oliver
Nara Srinivasa	Meena Thomas
Elizabeth Barton Jones	Daphne Allen
Stephen Mendoza	Janis Ervin
Linda Hymans	Sid Lajzer
Lynne LeMon	Anne McKibben
John Costello	Valerie Seely
Bih-Jau Sheu	Tracie Monroe

PUC PROJECT NO. 16251

INVESTIGATION OF SOUTHWESTERN BELL
 TELEPHONE COMPANY'S ENTRY INTO THE
 TEXAS INTERLATA TELECOMMUNICATIONS
 MARKET

§
 §
 §
 §
 §

PUBLIC UTILITY CO
 OF TEXAS

ORDER NO. 25
ADOPTING STAFF RECOMMENDATIONS;
DIRECTING STAFF TO ESTABLISH COLLABORATIVE PROCESS

Comments and Recommendations

At the May 21, 1998 open meeting, the Commission discussed staff's recommendations on Southwestern Bell Telephone Company's (SWBT's) notice of intent to file section 271 application for interLATA authority in Texas. The Commission adopted, as modified, staff's recommendations. Attachment 1 contains the recommendations adopted by the Commission.

Collaborative Process

Also at the May 21, 1998 open meeting, the Commission directed the staff to establish a collaborative process to address all the issues outlined by Commissioners and staff, as contained in the attached recommendation. The goal of the collaborative process shall be to institute workable solutions to the issues outlined by Commissioners and staff, including a series of specific commitments and obligations by SWBT, and to review data obtained during the process. At the conclusion of the collaborative process, SWBT shall supplement the record to show its compliance with the requirements of section 271. The successful conclusion of the collaborative process and supplementation of the record would allow the Commission to reach a positive recommendation to the FCC on SWBT's application.

A subsequent order shall detail the specific procedures and schedule for the collaborative process.

SIGNED AT AUSTIN, TEXAS the _____ day of _____ 1998.

PUBLIC UTILITY COMMISSION OF TEXAS

PAT WOOD, III, CHAIRMAN

JUDY WALSH, COMMISSIONER

PATRICIA A. CURRAN, COMMISSIONER

ATTACHMENT 40

CALIFORNIA PUBLIC UTILITIES COMMISSION
TELECOMMUNICATIONS DIVISION
INITIAL STAFF REPORT

**Pacific Bell (U 1001 C) and Pacific Bell Communications
Notice of Intent to File Section 271 Application
For InterLATA Authority in California**

July 10, 1998

TABLE of CONTENTS

CHAPTER I: INTRODUCTION.....	1
A. EXECUTIVE SUMMARY	1
B. PROCEDURAL BACKGROUND	2
C. STAFF REPORT CONTENTS	3
D. DESCRIPTION OF THE COLLABORATIVE PROCESS	4
E. FEDERAL GUIDELINES CONSIDERED	5
CHAPTER II: MULTIPLE-ISSUE ITEMS.....	9
A. OPERATIONS SUPPORT SYSTEMS (OSS).....	9
B. COLLOCATION.....	33
CHAPTER III: SECTION 271 CHECKLIST ITEMS	37
A. ITEM ONE – Interconnection	37
B. ITEM TWO – Unbundled Network Elements	41
C. ITEM THREE – Rights-of-Way	47
D. ITEM FOUR – Unbundled Loop	51
E. ITEM FIVE –Local Transport	53
F. ITEM SIX –Unbundled Switching.....	54
G. ITEM SEVEN —Nondiscriminatory Access to 911 and E911, Directory Assistance Services, and Operator Call Completion Services.....	57
H. ITEM EIGHT – White Pages	62
I. ITEM NINE – Access to Telephone Numbers.....	63
J. ITEM TEN – Access to Databases.....	64
K. ITEM ELEVEN – Number Portability	66
L. ITEM TWELVE – Dialing Parity.....	68
M. ITEM THIRTEEN – Reciprocal Compensation	69
N. ITEM FOURTEEN – Resale	70
CHAPTER IV: OTHER TELECOMMUNICATIONS ACT REQUIREMENTS.....	74
A. SECTION 272.....	74
B. PRESENCE OF A FACILITIES-BASED COMPETITOR.....	76
C. STATE OF LOCAL COMPETITION	79

CHAPTER I: INTRODUCTION

A. EXECUTIVE SUMMARY

Telecommunication Division staff (staff) presents this Initial Staff Report addressing Pacific Bell's (Pacific's) compliance with the requirements of section 271 of the Federal Telecommunication Act of 1996 (FTA96 or Act).¹ This report was produced as directed by the June 26, 1998, Joint Managing Commissioner's and Administrative Law Judge's Ruling (June 26th Ruling) regarding Pacific's draft 271 application before the Commission.

To develop this report, staff relied on the extensive record in the proceeding and the relevant guidelines provided by the Federal Communications Commission (FCC) and the U.S. Department of Justice (DOJ). Based on its assessment of the record, staff believes that Pacific has provided evidence that it has complied with three items of the 14-point checklist in section 271 of the Act. Specifically, staff believes that Pacific has satisfactorily complied with the following checklist items: (3) Access to Rights-of-Way; (9) Access to Telephone Numbers; and (12) Dialing Parity.

Staff commends Pacific for its recent efforts to improve services to CLECs. However, Pacific has not provided evidence that it has complied with the remaining 11 checklist items. This is primarily a result of problems with Pacific's ability to provide adequate Operations Support Systems (OSS) and collocation to CLECs. These problems and other specific checklist problems are discussed in more detail in Chapters II and III of this report. Further, staff found that Pacific has not provided evidence that it is in compliance with section 272 of the Act regarding its separate affiliates that will provide interLATA service. This assessment is presented in Chapter IV.

Chapter II of the report contains the staff analysis of OSS and collocation issues. The report finds that Pacific does not offer competitors OSS on the same level of mechanization as its retail operations. The current OSS is largely manual, which increases the possibility of error. Staff has determined that Pacific's OSS needs to provide all functionalities to CLECs at parity with its own retail operations. In developing and implementing its OSS, Pacific has regarded the CLECs more as competitors than as wholesale customers. While Pacific recently deployed new OSS interfaces, staff and parties have not had an opportunity to evaluate the new OSS.

In the area of collocation, Pacific has denied competitors physical collocation in a number of its offices, due to a reported lack of space. While Pacific has made efforts to find collocation space, CLECs are unable to obtain collocation spaces in key central offices in the state.

¹ Pacific Bell and Pacific Bell Communications (hereinafter referred to collectively as Pacific) on their own behalf and behalf of their subsidiaries and affiliates.

Staff's initial report hereby identifies specific issues that will be addressed during the Collaborative Workshops which will begin later this month, as directed in the June 26th Ruling. In accordance with the June 26th Ruling, Following the collaborative workshops, staff will draft a Final Staff Report that will enumerate compliance solutions, implementation goals, and potential sanctions in the event of non-compliance.

B. PROCEDURAL BACKGROUND

On March 31, 1998, Pacific filed its draft 271 application with this Commission in response to a Joint Managing Commissioner's and Administrative Law Judge's (ALJ) February 20, 1998, Ruling. The February 20th Ruling directed Pacific to file a draft application at the California Public Utilities Commission (Commission) at least 90 days in advance of filing at the FCC. The purpose of the advance filing was to ensure that this Commission would have adequate time to review and evaluate the application.

Subsequent to Pacific's filing, staff held formal weekly meetings with Pacific, CLECs, and other interested parties to clarify issues in the filings. Because of the size and complexity of the record, the Managing Commissioner and assigned ALJ issued a ruling on May 20, 1998, revising the process and altering the procedural schedule. Under the new schedule, staff was directed to prepare a staff report to be released for comment. The report, and parties' comments, would be used by the assigned ALJ to draft a proposed decision for the Commission's consideration.

On May 27, 1998, shortly after the May 20th Ruling was issued, Pacific filed a motion seeking to further revise the procedure for addressing its draft application. Pacific requested "a more collaborative workshop type process that will enable the staff and the parties to work through the issues." (Pacific Bell Motion, p 2.) Parties responded to Pacific's motion on June 4, 1998. On June 26, 1998, the Managing Commissioner and assigned ALJ jointly ruled on Pacific's motion to further revise the 271 procedure. The June 26th Ruling adopted a collaborative approach to processing Pacific's application. Specifically, rather than having staff issue a comprehensive report assessing its findings and evaluations, the ruling proposes a "collaborative process" in which Pacific, the CLECs, interested parties, and staff work together to develop solutions for each problem.

To this end, staff has been directed to issue an Initial Staff Report on its findings. At the end of the collaborative process, staff is directed to prepare a Final Staff Report which will be released for comments. That report is intended to outline steps that Pacific must take to correct the specific problems described in the Initial Staff Report. It will also include an implementation schedule for each item. It is anticipated that the report may include sanctions for future noncompliance to ensure that corrective measures do not

deteriorate over time.² The assigned ALJ is expected to use the Final Staff Report and parties' comments to prepare a decision for the Commission's consideration.

Adoption of the collaborative process was inspired, in part, by similar actions of the New York and Texas commissions. Both New York and Texas responded to 271 applications by asking the BOC to collaborate on solutions to competitive complaints of market participants. New York sponsored a series of collaborative sessions and then issued a staff report, while in Texas the Commission ordered parties to participate in a collaborative process. Both states outlined areas of non-compliance, recommended solutions, set out implementation goals, and proposed sanctions in the event of future noncompliance.

In determining compliance with the 14-point checklist, staff was constrained by the instant record per FCC guidance. In its Ameritech/ Michigan decision, the FCC mandates a "snapshot" approach for 271 applications: Applications must represent present compliance only; applications, once submitted, cannot be augmented with additional information; and promises of future compliance are considered irrelevant. (Ameritech, ¶55) The record for this proceeding therefore presents a snapshot of Pacific's 271 compliance as of the filing date, March 31, 1998.

However, staff recognizes that time does not stand still, and that much has happened since Pacific's initial filing. For example, Pacific has instituted new OSS interfaces. It has also made some policy changes, such as allowing collocation of Remote Switching Modules, and is revising its treatment of collocation. The snapshot approach mandated by the FCC does not allow inclusion into the record of evidence provided after the original filing. However, because staff will shortly be entering into a collaborative process with parties, this report attempts to reflect changes that have occurred since March 31, 1998. Staff proposes to explore the implications of those changes as part of the collaborative process.

C. STAFF REPORT CONTENTS

The Staff Report consists of an analysis of each of the 14 checklist items, as well as analysis of two "multiple-issue" items, OSS and collocation. Each checklist item is dealt with in a similar manner: the item is identified; the issues, if any, are outlined; and staff lists the issues that will be discussed within the collaborative process. For OSS, in the hope that specific requirements will narrow the scope of issues to be discussed, staff has made further recommendations relating to baseline requirements.

² Joint Managing Commissioner's and Administrative Law Judge's Ruling on Pacific Bell's Motion to Further Revise the 271 Procedure, P. 9.

Along with this Introduction, the Staff Report contains a discussion of each of the following:

- requirements, issues, and recommendations for Operations Support Systems (OSS) (See Chapter II, Section A);
- requirements and issues for collocation (See Chapter II, Section B);
- requirements and issues for each checklist item from the section 271 14-point checklist (See Chapter III);
- requirements and issues for section 272 compliance (See Chapter IV, Section A);
- presence of a facilities-based competitor (See Chapter IV, Section B);
- the state of local competition (See Chapter IV, Section C).

D. DESCRIPTION OF THE COLLABORATIVE PROCESS

Criteria Applied for Identifying Issues

Before determining which issues to include in the collaborative process, staff thoroughly researched and analyzed the extensive record of the proceeding. To identify issues and concerns appropriate for the collaborative process, staff applied the following criteria. To be included within the collaborative process, an issue had to fit in one or more of the following categories:

- Ubiquitous. Is the issue identified as a problem by more than one CLEC? Or, if identified by only one CLEC, does it appear to have more general impact?
- Timely. Is this a continuing problem or has it been resolved? Was this a one-time occurrence?
- Significant. Does the issue present a barrier to entry, does it significantly impact the ability of one or more CLECs to compete, and/or does it indicate discriminatory behavior?

In addition, certain issues which parties raised, e.g., pricing of UNEs and reciprocal compensation to CLECs with Internet Service Provider customers, were not included in the collaborative process because they are being addressed in other Commission proceedings.

Staff has not determined whether or not it would be feasible to explore performance measures, an issue being addressed in the OSS OII, in the collaborative process.

Goal of the Collaborative Process

The goal of the collaborative process is three-fold: to develop solutions for identified problem areas, to establish implementation goals, and provide safeguards (e.g., penalties and assurance mechanisms) that will ensure that corrective measures will not deteriorate over time.

The outcome of the collaborative process will form the basis for the Final Staff Report.

E. FEDERAL GUIDELINES CONSIDERED

The guidelines for the 271 process are codified within sections 271 and 272 of FTA96. Further guidance is provided by the FCC in its four orders addressing prior applications of BOCs for section 271 authority. Section 271 makes numerous references to sections 251 and 252 of FTA96. These sections have been addressed by the FCC in numerous orders including the First, Second and Third Report and Order on Interconnection. The DOJ has also given BOCs guidance in its reports on the four prior requests of BOCs for interLATA authority.

Basic Guidelines

On or after the date of enactment of the FTA96, a Bell Operating Company (BOC) or its affiliate may apply to the FCC for authorization to provide interLATA services originating in any in-region State. (FTA96, 271(d)(1)) The FTA96 outlines the following general procedures for evaluation of 271 applications:

- consultative roles are created for the Department of Justice and the pertinent state commission, (271)(d)(2)(A) & (B);
- the FCC shall issue a written determination not later than 90 days after receiving an application, (271)(d)(3);
- the requested authorization must be carried out in accordance with the requirements of section 272³, (271)(d)(3)(B);
- the requested authorization must be consistent with the public interest, convenience, and necessity, (271)(d)(3)(C).

³ Section 272 outlines requirements for separate affiliate safeguards.

The 14-Point Checklist

In order to gain FCC approval of its application -- and approval of the DOJ and the pertinent state commission, in their respective consultative roles -- the BOC must prove that it is providing each of the 14 checklist items listed in Section 271(c)(1)(B) of the Act to competitors in a nondiscriminatory manner, and at parity with its own use.

Role of State Commissions

FTA96 section 271 (d)(2)(B) describes the role of state commissions as follows: "Before making any determination under this subsection, the Commission shall consult with the State commission of any State that is the subject of the application in order to verify the compliance of the Bell operating company with the requirements of subsection (c)."

The FCC finds that it will consider carefully those state commission findings that are supported by a detailed and extensive record. (LA Order ¶9.) It also states "(b) because it is the Commission's statutory duty to determine whether the requirements of section 271 have been satisfied, the Commission is not limited to considering only the issues and facts that were presented in the state commission proceeding." The FCC stresses, however, that parties should make every effort to present their views in the state forum. (SC Order, ¶ 27.)

General FCC Guidelines for the 271 Process

The FCC offers the following as guidelines for the 271 application process:

1. Burden of Proof

The FCC states that "the BOC applicant retains at all times the ultimate burden of proof that its application satisfies section 271." (Ameritech, ¶44.)

2. Complete Applications

In its Ameritech/Michigan decision, the FCC stresses that, because of the truncated time frame for 271 evaluations, a "BOC's section 271 application must be complete on the day it is filed." (¶ 50. See also SC Order ¶¶ 37, 57.)

3. No Paper Promises

In its Ameritech/Michigan decision, the FCC is very clear that "paper promises" can hold no bearing on whether a BOC passes a checklist item:

“We find that a BOC’s promises of future performance to address particular concerns raised by commenters have no probative value in demonstrating its present compliance with the requirements of section 271. Paper promises do not, and cannot, satisfy a BOC’s burden of proof.” (¶55.)⁴

4. Obligation to Present Evidence and Arguments Clearly

The FCC finds that BOCs bear the burden of presenting their arguments and evidence clearly and concisely, and that the significance of the evidence must be readily apparent. (¶¶ 60-61.)

General FCC Guidelines for Evaluating Checklist Compliance

Within its 271 application orders, the FCC offers the following guidance in determining compliance with each checklist item:

1. Available as a Practical and Legal Matter

In its Ameritech/Michigan 271 order, the FCC provided a yardstick to use in determining what it means to “provide” a particular checklist item. The FCC concluded that a BOC provides a checklist item if it makes the item available “as a legal and practical manner.” (Ameritech, ¶107)

2. Preponderance of the Evidence

The Act does not prescribe a particular standard of proof for establishing whether a BOC applicant has satisfied the checklist. Since the standard of proof applicable in most administrative and civil proceedings is the “preponderance of the evidence,” the FCC adopted that as the appropriate standard for evaluating a BOC 271 application. (Ameritech, ¶45)

3. Access Must Be Non-Discriminatory and Provided at Parity

The FCC determined that the BOC is required to provide access to its competitors that is equivalent to the level of access it provides to itself, its customers, or its affiliates. The FCC construes equivalent access broadly to include comparisons of analogous functions between competing carriers and the BOC, even if the actual mechanism used to perform the function is different for competing carriers than for the BOC’s operations. (Ameritech, ¶139)

⁴ The FCC finds, however, that they can and will look at past behavior in evaluating 272 (affiliate safeguards) compliance: “(W)e will look to past and present behavior of the BOC as the best indicator of whether the BOC will carry out the requested authorization in compliance with the requirements of section 272.” (Ameritech/ Michigan, ¶111.)

DOJ Guidelines for Evaluating Checklist Compliance

In its evaluation of the Ameritech/Michigan application, the DOJ found that Ameritech failed to show that the local markets in Michigan were "irreversibly opened to competition." The DOJ termed this to be its competitive standard for evaluating section 271 applications. (DOJ, Ameritech - Michigan, June 25, 1997)